



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2119

DATE SCANNED 12-22-16

SCANNER NO. 2

SCAN OPERATOR JMP

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION COMMISSION  
SECRETARIAT

2010 MAR 24 A 8:49

March 23, 2010

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*  
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC*  
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *M.H. for D.C.*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: NATALIYA IOFFE/RHIANNON MAGRUDER/IAN WANDNER *pm* *J. W.*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2009 YEAR END  
REPORT FOR THE ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2009 Year End Report in accordance with 2 U.S.C. § 434(a). The Year End Report was due on January 31, 2010.

The committees listed in the attached RTB Circulation Report either failed to file the report, filed the report more than five (5) days after the due date, or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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3/23/2010 2:19 PM

Federal Election Commission  
Reason to Believe Circulation Report  
2009 YEAR-END Not Election Sensitive 01/31/2010 H\_S\_P\_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2117	C00041061	AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE		CAPTAIN MICHAEL R. WATSON	\$108,400	1	3/20/2010	Not Filed	\$25,527	\$1,237
2118	C00338020	ASSISTED LIVING FEDERATION OF AMERICA		MS. MARIBETH BERSANI	\$109,759	0	2/22/2010	22	\$70,221	\$2,145
2119	C00453514	BLACK AMERICANS FOR REAL CHANGE		SELENA OWENS	\$102,116	1	3/14/2010	Not Filed	\$1,770	\$312
2120	C00458760	DAN GELBER FOR SENATE	GELBER, DANIEL	BRENDA SCHWARTZ	\$773,945	0		Not Filed	\$257,982 (est)	\$8,800
2121	C00458810	FRIENDS OF WAYNE	MOSLEY, EMMETT WAYNE JR.	SARAH WESTCOTT	\$236,492	0		Not Filed	\$118,246 (est)	\$4,950

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - 2009 )  
Year End Report for the Administrative )  
Fine Program: )  
ASSISTED LIVING FEDERATION OF ) AF# 2118  
AMERICA, and BERSANI, MARIBETH )  
MS as treasurer; )  
AMERICAN PILOTS' ASSOCIATION ) AF# 2117  
POLITICAL ACTION COMMITTEE, and )  
CAPTAIN MICHAEL R WATSON as )  
treasurer; )  
BLACK AMERICANS FOR REAL ) AF# 2119  
CHANGE, and SELINA OWENS as )  
treasurer; )  
DAN GELBER FOR SENATE, and ) AF# 2120  
BRENDA SCHWARTZ as treasurer; )  
FRIENDS OF WAYNE, and SARAH ) AF# 2121  
WESTCOTT as treasurer; )

CERTIFICATION

I, Darlene Harris, Acting Secretary of the Federal Election Commission, do hereby certify that on March 25, 2010 the Commission took the following actions on the Reason To Believe Recommendation - 2009 Year End Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated March 23, 2010, on the following committees:

AF#2118 Decided by a vote of 6-0 to: (1) find reason to believe that ASSISTED LIVING FEDERATION OF AMERICA, and BERSANI, MARIBETH MS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money

penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2117 Decided by a vote of 6-0 to: (1) find reason to believe that AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE, and CAPTAIN MICHAEL R WATSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2119 Decided by a vote of 6-0 to: (1) find reason to believe that BLACK AMERICANS FOR REAL CHANGE, and SELENA OWENS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2120 Decided by a vote of 6-0 to: (1) find reason to believe that DAN GELBER FOR SENATE, and BRENDA SCHWARTZ as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2121 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF WAYNE, and SARAH WESTCOTT as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

March 29, 2010  
Date

Darlene Harris  
Darlene Harris  
Acting Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 29, 2010

Selena Owens as Treasurer  
Black Americans for Real Change  
2474 106 Walnut St.  
Cary, NC 27518

C00453514  
AF#: 2119

Dear Ms. Owens:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a Year End Report of Receipts and Disbursements every calendar year. This report, covering the period through December 31, 2009, shall be filed no later than January 31, 2010. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date, it is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On March 25, 2010, the FEC found that there is reason to believe ("RTB") that Black Americans for Real Change and you, as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before January 31, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$312. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-11.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$312 is due within forty (40) days of the finding, or by May 4, 2010, and is based on these factors:

Election Sensitivity of Report: Not Election Sensitive

Level of Activity: \$1,770

Number of Days Late: Not Filed (for the purpose of calculating the penalty only)

Number of Previous Civil Money Penalties Assessed: 1

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

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NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or May 4, 2010. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Black Americans for Real Change and you as treasurer violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

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**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhiamon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen  
Chairman

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$312 for the 2009 Year-End Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by May 4, 2010. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Black Americans for Real Change

FEC ID#: C00453514

AF#: 2119

PAYMENT DUE DATE: May 4, 2010

PAYMENT AMOUNT DUE: \$312

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2010 MAY 25 A 9:24

May 24, 2010

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*  
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC*  
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *nuc* NATALIYA IOFFE/RHIANNON MAGRUDER/IAN WANDNER *RM* *1. w.*  
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION  
RECOMMENDATION FOR THE 2009 YEAR END REPORT

Attached are two lists of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2009 Year End Report. The first list represents the committees that have paid the civil money penalty and the second list represents the committees that have not paid the civil money penalty. The committees that have not paid have been given at least forty (40) days from the date of the Commission's RTB finding to remit payment.

In accordance with 11 CFR § 111.34 and 11 CFR § 111.40, the Commission shall send a final determination notice to those respondents that have either paid or not paid the civil money penalty.

For your information, Dan Gelber for Senate (AF 2120) filed the 2009 Year End Report after the RTB finding and disclosed no activity (previously estimated to be \$257,982), which would result in no civil money penalty (previously estimated to be \$8,800).

Friends of Wayne (AF 2121) filed the 2009 Year End Report after the RTB finding and disclosed a level of activity which would result in a lowered civil money penalty. The committee disclosed total receipts and disbursements of \$22,447 (previously estimated to be \$118,246), thus the fine would be lowered from \$4,950 to \$550.

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**RAD Recommendation**

- (1) Make final determination that the political committees and their treasurers listed on the attached reports violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

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Federal Election Commission  
FD Circulation Report Fine Paid  
2009 YEAR-END Not Election Sensitive 01/31/2010 H\_S\_P\_UNAUTH

AF#	Committee Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2117	AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE	C00041061	CAPTAIN MICHAEL R WATSON	03/20/2010	Not Filled	\$25,527	1	03/25/2010	\$1,237	\$1,237	05/05/2010	\$1,237
2118	ASSISTED LIVING FEDERATION OF AMERICA	C00338020	BERSANI, MARIBETH MS	02/22/2010	22	\$70,221	0	03/25/2010	\$2,145	\$2,145	04/13/2010	\$2,145

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Federal Election Commission  
FD Circulation Report Fine Not Paid  
2009 YEAR-END Not Election Sensitive 01/31/2010 H\_S\_P\_UNAUTH

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Days Since RTB	FD Penalty
2119	BLACK AMERICANS FOR REAL CHANGE		C00453514	SELENA OWENS	03/14/2010	Not Filed	\$1,770	1	03/25/2010	\$312	60	\$312
2120	DAN GELBER FOR SENATE	GELBER, DANIEL	C00458760	BRENDA SCHWARTZ	05/06/2010	Not Filed	\$0	0	03/25/2010	\$8,800	60	\$0
2121	FRIENDS OF WAYNE	MOSLEY, EMMETT WAYNE JR	C00458810	SARAH WESTCOTT	05/03/2010	Not Filed	\$22,447	0	03/25/2010	\$4,950	60	\$550

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
Administrative Fine Program - Final	)	
Determination Recommendation for the	)	
2009 Year End Report:	)	
ASSISTED LIVING FEDERATION OF	)	AF# 2118
AMERICA, and BERSANI, MARIBETH	)	
MS as treasurer;	)	
AMERICAN PILOTS' ASSOCIATION	)	AF# 2117
POLITICAL ACTION COMMITTEE, and	)	
CAPTAIN MICHAEL R WATSON as	)	
treasurer;	)	
BLACK AMERICANS FOR REAL	)	AF# 2119
CHANGE, and SELINA OWENS as	)	
treasurer;	)	
DAN GELBER FOR SENATE, and	)	AF# 2120
BRENDA SCHWARTZ as treasurer;	)	
FRIENDS OF WAYNE, and SARAH	)	AF# 2121
WESTCOTT as treasurer;	)	

**CERTIFICATION**

I, Darlene Harris, Acting Secretary of the Federal Election Commission, do hereby certify that on May 26, 2010, the Commission took the following actions on the Administrative Fine Program - Final Determination Recommendation for the 2009 Year End Report as recommended in the Reports Analysis Division's Memorandum dated May 24, 2010, on the following committees:

AF#2118      Decided by a vote of 6-0 to: (1) make a final determination that ASSISTED LIVING FEDERATION OF AMERICA, and BERSANI, MARIBETH MS

as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2117 Decided by a vote of 6-0 to: (1) make a final determination that AMERICAN PILOTS' ASSOCIATION POLITICAL ACTION COMMITTEE, and CAPTAIN MICHAEL R WATSON as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2119 Decided by a vote of 6-0 to: (1) make a final determination that BLACK AMERICANS FOR REAL CHANGE, and SELENA OWENS as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2120 Decided by a vote of 6-0 to: (1) make a final determination that DAN GELBER FOR SENATE, and BRENDA SCHWARTZ as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2121 Decided by a vote of 6-0 to: (1) make a final determination that FRIENDS OF WAYNE, and SARAH WESTCOTT as treasurer, violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

May 27, 2010  
Date

Darlene Harris  
Darlene Harris  
Acting Secretary of the Commission

10092651902



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 28, 2010

Selena Owens, in official capacity as Treasurer  
Black Americans for Real Change  
2474 106 Walnut St.  
Cary, NC 27518

C00453514  
AF#: 2119

Dear Ms. Owens:

On March 25, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Black Americans for Real Change and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2009 Year-End Report. By letter dated March 29, 2010, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$312 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. Within 40 days of the FEC's RTB finding, its treasurer was required to either transmit payment of the calculated civil money penalty or submit a written response challenging either the RTB finding or the calculated civil money penalty.

The FEC did not receive payment of the calculated civil money penalty or a written response within the time permitted. The FEC made a final determination on May 26, 2010 that you, in your official capacity as treasurer, and Black Americans for Real Change violated 2 U.S.C. § 434(a) and assessed a civil money penalty in the amount of \$312 in accordance with 11 C.F.R. § 111.43. The civil money penalty is based on these factors:

Election Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$1,770  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 1

At this juncture, the following courses of action are available to you:

**1. If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). Your failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

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**2. If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 *et seq.* If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, send the enclosed remittance form, along with your payment, to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Rhiannon Magruder at Federal Election Commission, 999 E St., NW, Washington, DC 20463, or our toll free number (800) 424-9530 (at the prompt, press 5) or (202) 694-1130.

On behalf of the Commission,



Matthew S. Petersen  
Chairman

10092651904

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## ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$312 for the 2009 Year-End Report.

This penalty should be paid by check or money order made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

### Payments by Personal Check

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Black Americans for Real Change

FEC ID#: C00453514

AF#: 2119

PAYMENT AMOUNT DUE: \$312

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**ELECTRONIC CERTIFICATION AGREEMENT FOR  
DEBTS SUBMITTED TO THE FINANCIAL MANAGEMENT SERVICE'S  
CROSS-SERVICING PROGRAM**

**This Agreement is submitted by: Federal Election Commission**

**Creditor Agency: Federal Election Commission**

**Date of Agreement: November 18, 2009**

**The Creditor Agency agrees that:**

- I. This Agreement covers all debts, including updates, changes, and modifications (Debts) submitted by Electronic Transmission on or after the date of this Agreement, by the above-named Creditor Agency ("Agency") to the Financial Management Service ("FMS"), a bureau of the U.S. Department of the Treasury, for collection through the FMS's Cross-Servicing Program. (Cross-Servicing).;
- II. The Agency will submit debts to Cross-Servicing via Electronic Transmission of "Add Records" or "Update Records," as described in the attached Exhibit A. Each time the Agency submits a Debt via an Add Record or Update Record, the Agency is certifying the Debt;
- III. Any person who submits Debts via an Add Record or Update Record has or will have delegated authority to certify the Debts on behalf of the head of the Agency, and the Agency will provide a copy of this Agreement to any such person;
- IV. By submitting Debts via an Add Record or Update Record, the person submitting such Debts is certifying to the U.S. Department of the Treasury, under penalty of perjury pursuant to 5 U.S.C. § 5514, 31 U.S.C. § 3716, 31 U.S.C. § 3720A, and 28 U.S.C. § 1746, that to the best of his or her knowledge and belief, the following is true and correct:
  1. **Valid Debts.** The debts are delinquent, valid and legally enforceable in the amounts stated.
  2. **No Bar to Collection.** The debts are not subject to any circumstances that legally preclude or bar collection, including collection by offset. There are no foreclosures pending with respect to any collateral securing a debt. The Agency's records do not show that any debtor owing a debt has filed for bankruptcy protection. Alternatively, the Agency can clearly establish that any automatic stay has been lifted or is no longer in effect.

3. ***Administrative Offset and Tax Refund Offset.*** If the Agency has established a profile instructing FMS to refer debts to the Treasury Offset Program (TOP) on its behalf for the purposes of tax refund and administrative offset, the person submitting such debts will be certifying to the following:
- a. The Agency has complied with all of the provisions of 31 U.S.C. § 3716, 31 U.S.C. § 3720A, 31 C.F.R. §§ 285.2 and 285.5, and the Federal Claims Collection Standards (31 C.F.R. Parts 900-904), as may be amended, as well as other statutes, regulations and policies applicable to collection by administrative offset and tax refund offset.
  - b. At least 60 days prior to the date of the certification (i.e., date of Electronic Transmission), the Agency has provided, or made a reasonable attempt to provide in accordance with applicable offset regulations, each debtor with:
    - i. written notification, at the debtor's most current known address, of the nature and the amount of the debt, the intention of the Agency to collect the debt through administrative offset and tax refund offset, including offset of State payments, and an explanation of the rights of the debtor;
    - ii. an opportunity to inspect and copy the records of the Agency with respect to the debt;
    - iii. an opportunity for review within the Agency of the determination of the Agency with respect to the debt, including the opportunity to present evidence that all or part of the debt is not past-due or legally enforceable; and
    - iv. an opportunity to enter into a written repayment agreement with the Agency
  - c. The Agency has considered any evidence presented by the debtor and determined that the amount of the debt is past-due and legally enforceable and there are no pending appeals of such determination.
  - d. The Agency has, at minimum, made the following reasonable efforts to obtain payment of the debt: demanded payment and provided the debtor with the notice and opportunities described in paragraph 3.b.

- e. For debts outstanding more than ten years on or before December 31, 2009, the notice described in paragraph 3.b. was sent to the debtor after the debt was outstanding for more than ten years, and that the debtor was afforded the rights described in paragraphs 3.b. – 3.d. at that time. This requirement does not apply to any debt that could be collected by offset without regard to any time limitation prior to December 31, 2009 (e.g., student loans debts, judgments).

**4. *Due Process Compliance for Salary Offset.*** With respect to the offset of Federal salaries, if the Agency has authorized FMS to set up an agency profile so that all debts are referred to TOF for offset of federal salary payments:

- a. The Agency has complied with all of the provisions of 5 U.S.C. § 5514, 5 C.F.R. §§ 550.1101-1110, and 31 CFR 285.7, as may be amended, as well as other statutes, regulations and policies applicable to collection by salary offset.
  - i. The Agency has provided, or made a reasonable attempt to provide, each debtor with the notice, opportunities, and considerations described in paragraphs 3.b., 3.c. and 3.e (if applicable) and the additional notices and opportunities, including the opportunity for waiver consideration and for a hearing, required for salary offset.

**5. *Consumer Reporting Agencies.*** The Agency has complied with all of the provisions of 31 U.S.C. § 3711(e) and the Federal Claims Collection Standards, as well as other statutes, regulations and policies applicable to the Agency's reporting of delinquent debts to consumer reporting agencies. The Agency has:

- a. determined that the debts are valid and overdue;
- b. notified the debtor, more than 50 days prior to the date of the certification:
  - i. that the debt is overdue,
  - ii. that the Agency intends to disclose to a consumer reporting agency that the debtor is responsible for the debt,
  - iii. of the specific information to be disclosed to the consumer reporting agency, and
  - iv. of the debtor's rights to an explanation of the claim, to dispute the information in the Agency's records about the claim, and to administrative appeal or review of the claim; and

- c. upon the request of a debtor, provided for a review of any debtor's claim, including an opportunity for reconsideration of the initial decision on the claim.

In addition, no debtor has repaid or agreed to repay the claim under a signed repayment agreement or filed for review of the claim.

- d. *Interest and Penalties.* The Agency has complied with all of the provisions of 31 U.S.C. § 3717 and the Federal Claims Collection Standards, as well as other statutes, regulations and policies applicable to Agency's assessment of interest, penalties and administrative costs. The Agency has mailed or hand-delivered a written notice to all debtors explaining the Agency's requirements concerning the charges.

**CERTIFICATION:** Pursuant to 28 U.S.C. § 1746, I certify that I have been delegated authority to execute this Agreement on behalf of the head of my agency.



Shawn Woodhead Werth

Director, Office of Administrative Review

**ATTACHMENT A**  
**TREASURY CROSS-SERVICING PROGRAM**  
**CERTIFICATION TERMINOLOGY**

For purposes of the foregoing Agreement, the following describes how creditor agencies submit debts via ~~Electronic Transmission~~ of computer records to the Cross-Servicing program. (Please note this form is not for use by creditor agencies that submit their debts via manual transmission.):

1. Electronic Transmission. Any transmission from creditor agencies to the Cross-Servicing Program via any form of electronic media (including, but not limited to, tapes, diskettes, and on-line access), as more particularly described in Step 7; Electronic Format in the "Cross-servicing Implementation Guide", dated November 1998, as may be amended or updated ("Cross Servicing Guide"), is an Electronic Transmission.
2. Add Records. Add Records are electronic records which creditor agencies use to add new debts to Cross-Servicing. Add Records are more particularly described in "Step 7; Agency File Formats" in the Cross Servicing Guide.
3. Update Records. Update Records are electronic records that creditor agencies use to update, change or modify information about debts previously transmitted to Cross-Servicing by creditor agencies. Update Records are more particularly described in "Step 7; Agency File Formats" in the Cross Servicing Guide.



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2115

DATE SCANNED 12-28-16

SCANNER NO. 2

SCAN OPERATOR Jm10

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